Minneapolis Charter Commission Minutes

Regular Meeting
Wednesday, October 3, 2012 - 4:00 p.m.
Room 317 City Hall, Minneapolis, Minnesota

Commissioners Present: Clegg (Chair), Cohen, Dolan, Ferrara, Gerdes, Johnson, Kozak,

Lickness, Metge, Peltola, Rubenstein, Sandberg, Schwarzkopf (quorum 8)

Commissioner Excused: Connell

Also Present: Burt Osborne, Assistant City Attorney

1. Roll Call

Chair Clegg called the meeting to order at 4:02 p.m. Roll call was taken.

2. Adopt Agenda

Johnson moved adoption of the agenda. Seconded.

Adopted upon a voice vote.

Absent - Connell, Kozak, Rubenstein.

3. Approve Minutes of September 5, 2012

Peltola moved approval of the minutes of the meeting of September 5, 2012. Seconded. Adopted upon a voice vote.

Absent - Connell, Kozak, Rubenstein.

4. Chair's Report

Clegg informed Commissioners that he had been invited to and attended a meeting of the Cottage Grove Charter Commission who were considering whether or not to become a charter city and invited the chairs of several Charter Commissions to answer questions.

Election of Officer

5. Election of Vice Chair

Chair Clegg opened the floor to nominations.

Lickness moved the nomination of Commissioner Sandberg as Vice Chair. Seconded.

Peltola moved the nomination of Commissioner Ferrara as Vice Chair. Seconded. Commissioner Ferrara declined the nomination.

Johnson moved the nomination of Commissioner Cohen as Vice Chair. Seconded. Commissioner Cohen declined the nomination.

There being no further nominations, nominations were closed.

Lickness's motion to nominate Commissioner Sandberg as Vice Chair was adopted upon a voice vote.

Absent - Connell.

Clegg declared the position of Charter Commission Secretary vacant and that the Commission would hold an election for the position at the November 7 meeting.

Discussion

6. Plain Language Charter Revision:

Clegg stated that the one unresolved item regarding the Park Board's levy authority would hopefully be resolved at a meeting scheduled the week of October 22 with Park Board counsel and Deputy City Attorney Peter Ginder.

The Commission considered proposed amendments to the Plain Language Charter Revision (PLCR) which had been introduced by Commissioner Schwarzkopf at the September 5 meeting.

Schwarzkopf moved to amend Article VII, Administration; Section 7.2, Departments, of the Plain Language Charter Revision by adding the following language related to the position of City Coordinator: "City Coordinator. (1) Function. The City Coordinator shall be the chief administrative officer of the city. The Finance department including the Budget Officer and Purchasing director; the operations of the Convention Center; all City public information and neighborhood services; Human Resources including the staffing of the Civil Service Commission; Inspections of homes and businesses except that which is done by the Fire department; all City Licenses; and any other administrative services not covered by other departments of the city will be the responsibility of the City Coordinator. The City Coordinator will staff the Executive Committee. The City Coordinator may have such subordinate personnel as may be authorized by law or ordinance." Seconded.

Schwarzkopf stated that the amendment would provide an outline of the duties of the City Coordinator and an understanding of the shared system of government in the city.

Dolan stated that she was opposed to all of the proposed amendments. The changes would be substantive, and the Commission's intent with the rewrite had been to simply clean up the language and eliminate contradictions.

Clegg stated that he was also opposed to the amendment. Charter departments should continue to be named in the Charter but rather than defining individual positions, it was best to leave as much flexibility as possible for the City Council to change the duties of each position. The City Council should have the option to create and eliminate departments and reassign duties as necessary.

Ferrara stated that he felt that the phrase "and any other administrative services not covered by other departments of the city will be the responsibility of the City Coordinator" was too vague and open to interpretation. All of the proposed amendments could be used as a reference document but not defined in the Charter at this time.

Schwarzkopf noted that the City Coordinator and the duties of the position were in the current Charter, and he felt removing the duties of the position created a substantive change. If the revision was setting up a new system of government, such as a city manager form of government, he would agree that the positions should not be defined.

Rubenstein suggested defining the position of City Coordinator by the first sentence in the amendment, "The City Coordinator shall be the chief administrative officer of the city" with a second sentence stating that the duties of the City Coordinator would be defined or delegated from time to time by the City Council.

Kozak stated that the amendment basically outlined to the City Council the duties of the City Coordinator and would be best deferred to another time rather than included in the PLCR.

The Schwarzkopf motion to amend the Plain Language Charter Revision by adding language to Section 7.2 relating to the position of City Coordinator lost upon a voice vote. Absent - Connell.

Schwarzkopf moved to amend Article IV, City Council; Section 4.2, Organization, of the Plain Language Charter Revision by adding the following language related to the position of City Clerk: "(e) Staffing for the Council. A City Clerk, elected only by the Council and not subjected to 8.4(b), shall be responsible for providing staff to the Council and taking the minutes of Council and Council Committee meetings. The City Clerk shall, administering oaths and affirmations, keep the corporate seal and all the papers and records of the City including the proceedings of the Council and shall see that all ordinances of the City are quickly codified. A complete codification of ordinances shall take place at least once every five years. The City Clerk shall provide for elections in the City of all public offices excluding Special School District No. 1 unless authorized by the elected members of Special School District No. 1 and shall perform such other duties as requested by the Council. The City Clerk may have such subordinate personnel as may be authorized by law or ordinance, subject to confirmation by the Council." Seconded.

Schwarzkopf stated that including a description of the duties of the City Clerk in the Revised Charter would be consistent with the current Charter and not a substantive change.

At the request of Commissioner Metge, Casey Carl, City Clerk, stated that the current Charter provided some detail of charter department heads and excising that detail in the Plain Language Charter Revision was, in his opinion, a substantive change. If the PLCR was an effort to simply place in plain language what currently exists, then there should be some level of detail in it regarding these positions. He felt the proposed amendment was a fair and accurate description of the duties of the City Clerk in Minneapolis.

Clegg stated that he did not want to define duties which might not exist ten years from now. Also, when the PLCR is placed on the ballot, it will be noted that it will become effective one year after the date of adoption in order to allow the Council time to consider items that should be put into ordinance.

Kozak stated that including a generic definition of the duties of a city clerk would not limit the discretion of the policy makers to make changes to the position.

Peltola suggested requesting former Commissioner's Melendez's help, as the reporter, regarding the proposed amendments. If the intent was to bring back into the PLCR descriptions of charter level positions, he could support the proposed amendments. However, he would be opposed to adding any positions to the revision that were not included in the current charter.

Metge stated that the City Clerk's Office is the most crucial in the city, and she did not want to see it undefined. She thanked Commissioner Schwarzkopf for bringing the amendment forward.

Ferrara stated that at some point in the future some of the proposed language might be added back to the charter, but this was not the time or the place in the process to do so. It should go to the voters as it is written, not with the suggested amendments. The Commission should stick to their original core principle which was to create a very plain language charter that moves those things to ordinance that belong in ordinance to give clarity and flexibility.

Sandberg felt that the position of the City Clerk did not belong in this section of the revised charter. Schwarzkopf clarified that he placed the added language in Section 4.2 rather than Section 7.2 because the City Clerk is an appointee of the City Council, and the Clerk works for the City Council, not the Mayor or anyone else.

The Schwarzkopf motion to amend the Plain Language Charter Revision by adding language to Section 4.2 relating to the position of City Clerk, subject to review and editing by former Commissioner Melendez and the City Attorney, was adopted Yeas, 7; Nays, 6 as follows:

Yeas - Cohen, Johnson, Kozak, Lickness, Metge, Rubenstein, Schwarzkopf. Nays - Dolan, Ferrara, Gerdes, Peltola, Sandberg, Clegg. Absent - Connell.

Schwarzkopf moved to amend Article VII, Administration; Section 7.2, Departments, of the Plain Language Charter Revision by adding the following language related to the position of City Assessor: "(d) City Assessor. (1) Function. The City Assessor shall assess properties in the City as provided by state law and local ordinances and shall provide assistance to the Board of Equalization as required by law or as needed. The City Assessor may have such subordinate personnel as may be authorized by law or ordinance." Seconded.

Schwarzkopf stated that a description of the duties of City Assessor was included in the current Charter and he was adding it back in the revised charter.

Clegg stated that in addition to his previous objections, he felt the amendment was unnecessary because it essentially stated that the City Assessor will do what is prescribed by law. That is assumed of everything in the charter.

Metge noted that she was confused because the Charter Commission had intended to rewrite the current charter with no substantive changes and questioned whether it had been a substantive change to remove the description of duties relating to these positions.

The Schwarzkopf motion to amend the Plain Language Charter Revision by adding language to Section 7.2 relating to the position of City Assessor lost by a show of hands. Absent - Connell.

Schwarzkopf moved to amend Article VII, Administration; Section 7.2, Departments, of the Plain Language Charter Revision by adding the following language related to the Civil Rights Department: "(3) Function of the Civil Rights Department. The Civil Rights Department and its director shall staff the Civil Rights Commission, shall investigate complaints brought to their attention and shall carry out the directives of the Civil Rights Commission. The director of the department may have such subordinate personnel as may be authorized by law or ordinance." Seconded.

Clegg stated that there had been several proposals to consolidate this function with either another regional authority or with the state, and this proposal would require a charter amendment for that to take place. Having served on the Civil Rights Commission for 12 years, he knew that the Civil Rights Department did not always carry out the directives of the Civil Rights Commission, so the amendment created a very substantive change. The Civil Rights Department and the Civil Rights Commission have their own functions under ordinance. He felt the proposal was a misstatement of the current roles of the department and the commission.

Rubenstein stated that she had also experienced the fact that the Civil Rights Department did not always follow the directives of the Commission.

Schwarzkopf withdrew the motion.

Schwarzkopf moved to amend Article VII, Administration; Section 7.2, Departments, of the Plain Language Charter Revision by adding the following language related to the Director of the Community Planning and Economic Development Department: "(6) Director of the Department of Community Planning and Economic Development. (A) Function. The director of the department of Community Planning and Economic Development shall be responsible for staffing the City's Planning Commission, staffing and implementing the City's comprehensive plan, reviewing and updating the comprehensive plan and the City's zoning ordinances in accordance with state law and City ordinances and shall keep all records of variances, plats and re-plating of the City. The director shall also implement economic development within the city. The director of the department may have such subordinate personnel as authorized by law or ordinance." Seconded.

Kozak stated that the Department of Community Planning and Economic Development was one of the most volatile parts of city government and its role seemed to change from time to time. Enshrining the department in the charter would leave the City Council and Mayor less latitude to make changes.

Lickness stated that she would be uncomfortable with the function or organization of the department being defined by Charter.

Gerdes stated that he had run the Planning Department in Des Moines, Iowa for nine years, and this is a very important function of city government. He suggested the Commission leave it alone.

Schwarzkopf stated that if the duties of the director of the department were not spelled out, then the fact that there is a director of the department should be spelled out rather than just stating that there is a planning commission and outlining its membership.

The Schwarzkopf motion to amend the Plain Language Charter Revision by adding language to Section 7.2 relating to the Director of the Community Planning and Economic Development Department lost upon a voice vote.

Absent - Connell.

Schwarzkopf moved to amend Article VII, Administration; Section 7.2, Departments, of the Plain Language Charter Revision by adding the following language related to the Health Department: "(h) Health Department. The Health Commissioner is the director of the Health Department. It is the Commissioner and the department's responsibility to promote and preserve the public health of the City. The department may enforce all sanitary and public health laws of the State of Minnesota and applicable City ordinances, and inspect, working with the Inspections in the City Coordinator's office and issue orders for unsanitary conditions or in situations where the public health is jeopardized. The Commissioner may have such subordinate personnel as may be authorized by law or ordinance." Seconded.

Schwarzkopf stated that the Plain Language Charter Revision only listed the Health Department, headed by a Health Commissioner. He was trying to spell out that there was also a director of the Health Department and the functions of the department.

Lickness stated that the structure of the Health Department had changed during her tenure, and she had heard discussions of sending its functions to another jurisdiction. She was uncomfortable with the functions of the Health Department being defined in the charter.

The Schwarzkopf motion to amend the Plain Language Charter Revision by adding language to Section 7.2 relating to the Health Department lost upon a voice vote. Absent - Connell.

Schwarzkopf moved to amend Article VII, Administration; Section 7.2, Departments, of the Plain Language Charter Revision by adding the following language related to the Public Works Department: "(i) Public Works Department. (1) The director of the Public Works Department and the department are responsible for construction and management of the City's public streets, curbs, bridges, sidewalks and alleys; street lighting, traffic control, sewers and water, and trash removal. The construction or repairing of City buildings and other public assets are the responsibility of the department unless determined otherwise by the Council. The director may have such subordinate personnel as may be authorized by law or ordinance." Seconded.

Ferrara stated that the role of this department could change given environmental, economic, and other issues.

Rubenstein suggested that the information provided in Commissioner Schwarzkopf's amendments should be somewhere on the City's website to provide information to the public, but not in the charter.

The Schwarzkopf motion to amend the Plain Language Charter Revision by adding language to Section 7.2 relating to the Public Works Department lost upon a voice vote. Absent - Connell.

Schwarzkopf withdrew the language he had proposed at the September meeting related to the Planning Commission and conflict of interest and distributed new language for discussion. He stated that the new proposal included some of the language currently in the city's conflict of interest ordinances. The proposed amendment would allow for the discharge of a Planning Commission member if that member had a conflict of interest more than once in a twelve month period.

Burt Osborne, Assistant City Attorney, stated that the City's Code of Ethics applied to the City's Planning Commissioners. The current process is for Planning Commission members to recuse themselves and remove themselves from the discussion if they have a financial interest in a project before the Commission. There are also state laws governing conflict of interest.

Cohen stated that the Committee of the Whole of the Planning Commission would discuss this subject at their next meeting. While it would be difficult to argue that the proposed amendment was not substantive, it was very much needed. The approach taken by the City Attorney's Office of transparency and disclosure does not cure the conflict of interest. Signing a piece of paper, leaving the room, or sitting in the audience still leaves the Planning Commissioner with that private interest and the buck is then passed to the other Commissioners to deal with the issue and decide whether or not to reward the Commissioner with the conflict for his or her support of a given measure. The proposed amendment would also help in that voting by secret ballot on an issue where a member had a conflict of interest would put less pressure on the other Commissioners. He suggested tabling the proposed amendment and voting on it at the next meeting.

Dolan stated that the requirements should apply to everyone, not just the Planning Commission.

Lickness noted that all Charter Commissioners took an electronic test on their understanding of the ethics ordinance. It made it clear that a member's decisions should not be influenced by any type of financial involvement and spelled out exactly what was expected of Commissioners. This was a management issue, not a charter issue.

Lickness moved that discussion on the proposed amendment relating to the Planning Commission and conflict of interest be postponed until the next meeting. Seconded. Adopted upon a voice vote.

Absent - Connell.

Clegg stated that postponement was appropriate since it was the first time the Commission had seen the revised amendment. He asked that the City Attorney review the proposed language prior to the next meeting, particularly relating to whether secret ballots would be appropriate.

Cohen requested that a City Attorney attend the Planning Commission's Committee of the Whole meeting when the proposed amendment would be discussed and also requested that Assistant City Attorney Susan Trammell be given a copy of the language.

Rubenstein inquired whether the disclosure of financial information on the part of Planning Commissioners would be consistent with the Data Practices Act. Casey Carl, City Clerk,

stated that conflicts and disclosures, as well as Statements of Economic Interest, are filed with the Clerk's Office and are subject to the Data Practices Act.

Schwarzkopf moved to amend Article VIII, Officers and Other Employees; Section 8.5, Classified Service, of the Plain Language Charter Revision by adding the following language related to the Civil Service Commission and Civil Service Commission staff: "(1) Classified service. The "classified service" includes - (A) each employee of the Commission, except its director; and (B) each officer and other employee not in the unclassified service." and "(f) Commission Staff. The City Coordinator shall ensure staff assistance and support for the Commission to administer the Civil Service Programs. The director of the staff shall be the same person that the City Coordinator has appointed to administer Human Resources for the City." Seconded.

Schwarzkopf stated that he had put in writing what had been a gentleman's agreement between the City Coordinator and the Civil Service Commission for some time.

Clegg stated that handshake deals should not be included in the charter because they can be changed at will.

The Schwarzkopf motion to amend the Plain Language Charter Revision by adding language to Section 8.5 relating to the Civil Service Commission and Civil Service Commission staff lost upon a voice vote.

Absent - Connell.

Public Commentary

Casey Carl, City Clerk, stated that he had been informed by Deputy City Attorney Peter Ginder that there had been six officers spelled out in the original charter.

Gerdes stated that he had read the Model City Charter and had planned to discuss some portions of it, but because of the time, decided to do so at a future meeting.

Sandberg moved to adjourn. Seconded. Adopted upon a voice vote. Absent - Connell.

The meeting was adjourned at 5:16 p.m.

Submitted by: Peggy Menshek, Charter Commissioner Coordinator